

THE SCIENTIFIC NATURALIST CASE AGAINST MORAL RESPONSIBILITY: A RESPONSE TO ROTTSCHAEFER

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ABSTRACT: In *Against Moral Responsibility*, the rejection of moral responsibility is based on appeal to basic beliefs about fairness (beliefs that are widely shared and naturally explicable, but not subject to rational or scientific confirmation). However, the claim that moral responsibility is (by that commonly shared fairness standard) unfair requires extensive and detailed scientific examination of the deeper causes of character and behavior. Without moral responsibility we still have take-charge responsibility, a form of responsibility that is neither a substitute nor a successor to moral responsibility, but offers an important and beneficial exercise of control.

Key words: free will, moral responsibility, naturalism, Rottschaefer, self-efficacy

Having long admired William Rottschaefer's incisive and insightful work—particularly his recent work on moral agency and “second philosophy” (1998, 1999, 2009)—I anticipated a thorough, rigorous, and scrupulously fair review of *Against Moral Responsibility*: my expectations were exceeded. Rottschaefer not only elucidates the basic structure of the book and its underlying assumptions, but also suggests—as a “friendly naturalistic critic who embraces Waller's naturalism”—possibilities for an even more thoroughly naturalistic approach to the issues. Rottschaefer ultimately judges the basic argument against moral responsibility (MR) to be a failure, and perhaps it is not revealing too much of the plot to say that on this point we differ. Nonetheless, I still believe that our views are very similar, and given my respect for Rottschaefer's strict adherence to scientific naturalism, I hope to convince *myself* that our views are compatible even if I fail to convince him.

Rottschaefer starts with a clear and concise outline of the basic argument of *Against Moral Responsibility* and then proceeds to the much-debated question of what the basic concept of MR is, and whether, in fact, there is such an established concept. Rottschaefer correctly notes that I claim to be examining the “core concept of MR” and that my argument is that MR (understood in that way) cannot be justified, so it is of obvious significance whether such a “core” understanding of MR actually exists. In this section of his review Rottschaefer surveys the complex

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issues involved in determining the “core meaning” of MR, and his coverage of the experimental philosophy and psychological studies of this issue is thorough and masterful: anyone wishing to examine a clear map of this contested terrain could not do better than study Rottschaefer’s survey. But notwithstanding the many and varied understandings of MR, the target of my attack is focused on one specific use: the MR which “justifies blame and praise, punishment and reward; MR is the basic condition for giving and claiming both positive and negative just deserts.” Whether that qualifies as the “core” concept of MR is not my primary concern, but it does seem to me that it *is* the core concept of MR. There is no doubt that “the folk” treat MR in a variety of ways in a variety of contexts, and that recently philosophers have also proposed several ways of understanding MR. In addition, the parameters of MR undergo change: for example, the standards for essential mental conditions for MR are almost constantly in flux. But the “core concept” of MR remains: MR justifies punishment, reward, and claims of just deserts. This is the way the philosophical tradition has *generally* thought of MR, the way Western religion has considered MR (it is what justifies God’s severe punishment of human transgressions), and the way the criminal justice system regards MR (this person is not morally responsible, and thus cannot justly be punished; that person justly deserves punishment because she is, in fact, morally responsible for her crime—cases of “strict liability” are special exceptions). As Michael McKenna stated recently: “what most everyone is hunting for, both in *Four Views* [including Kane, Pereboom, Fischer, and Vargas], and in the wider philosophical arena, is the sort of moral responsibility that is desert entailing, the kind that makes blaming and punishing as well as praising and rewarding justified” (2009, p. 12).

Rottschaefer discusses the fascinating experimental work by Shaun Nichols and Joshua Knobe (2007) showing that people draw different conclusions concerning MR depending on whether they are dealing with abstract or more specific cases (if we give an abstract question about whether MR is possible in a strictly deterministic world, people say no; if in precisely the same world we pose the question of whether a cruel murderer is morally responsible and deserving of punishment, people say yes). Doris, Knobe, and Woolfolk (2007) suggest that we should deal with this apparent inconsistency by treating MR as a variant rather than an invariant concept: we have a *libertarian* understanding of MR in dispassionate, abstract settings (and thus considered abstractly, MR does not exist if the world is deterministic) and a different *compatibilist* understanding when our emotions are aroused by a specific case in which we feel a strong desire to punish. But rather than challenging my view or supporting a variance account, the Nichols and Knobe result seems a perfect fit for a naturalist view that does not multiply concepts or entities beyond necessity. When we think about it calmly and carefully, we realize that (without libertarian miracles) no one justly deserves punishment or reward. But overwhelmed by a strong desire to strike back, we decide the person must be morally responsible because we are surely justified in inflicting punishment on him. The strong public reaction to the John Hinckley case was a sort of natural experiment, mirroring what Nichols and Knobe found: the deep desire to severely punish Hinckley for his attempted assassination of Ronald

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Reagan was thwarted by a jury which thoughtfully and correctly reached a verdict of not guilty by reason of insanity. Considered coolly and abstractly, almost everyone agrees that those who are suffering from severe mental disorders are not morally responsible, but the powerful desire to strike back at someone who attacked a popular political figure overwhelmed that judicious conclusion.

It should hardly surprise us that the folk are all over the place concerning the conditions and justification of MR; after all, so are philosophers: Michael Zimmerman (2011, p. 100) recently noted that the enormous variety of conflicting justifications should cause concern for MR advocates. And that is what we would expect in a world in which the traditional libertarian justification is no longer plausible and the space for compatibilist justifications shrinks as our knowledge of psychology and neuropsychology expands. The MR system is a patchwork system riven with internal inconsistencies as it tries to accommodate feelings and reason in ways that don't work. When we think hard about it, especially in light of the scientific understanding of human behavior, we see its deep problems: problems that Thomas Nagel noted in "Moral Luck" (1979) and Neil Levy recently described in *Hard Luck* (2011). But the system is deeply entrenched, and looking more closely and carefully is precisely what it blocks.

In an interesting footnote, Rottschaefer writes: "Waller does not address the issue of whether such a core concept is biologically based and/or a social-cultural product" (2013, p. 11). Actually, I think it is both. It is rooted in a strike-back motivation we share with rats and chimps, but the actual MR system is a very complex cultural creation to accommodate and control that biologically-based desire. The MR system is not the only possible cultural system to deal with that biological motive: the honor system is another and distinctly different system, in which killing the innocent brother or son of someone who has inflicted harm on your family is morally required, while in the MR system it is morally forbidden. MR is indeed part of an ethical system. Thus, eliminating MR will not be like eliminating phlogiston; as Rottschaefer notes, it will be a "fundamental moral change" (2013, p. 5). I am grateful to Professor Rottschaefer for making clear that this is not to be understood as an eliminativist project of the sort discussed in philosophy of science; indeed, he puts my view very well: "we must eliminate it like we did slavery and sexism" (2013, p. 5). Rottschaefer notes that:

Waller's actual argumentative strategy remains ambiguous enough to make the scientific naturalist pause. Moreover, intuition-based arguments for unfairness attributions of MR will undoubtedly fail to convince either libertarian or compatibilist proponents of MR, or both. They surely will be unpersuasive to scientific naturalists. (2013, p. 18)

I certainly do not want to give pause to scientific naturalists, and above all I do not wish to lose my membership in the society of scientific naturalists. To that end, I hope to clarify a point that was left unclear in the book. I do believe that MR conflicts with our basic intuition of unfairness—but that claim is not based on the intuition of unfairness, but on examination of our scientific understanding of

human capacities and human behavior. At this point Rottschaefer goes to the heart of the MR question:

The compatibilist proponent of MR maintains that if it is the case that genuine moral agents exist, as Waller himself argues, then causal agency exists at various levels of complexity, including the psychological. Agents with cognitive capacities such as a sense of self-efficacy and of an internal locus of control genuinely accomplish something by means of *these* capacities or fail to do so because of failures of *these* capacities. In such instances of success or failure (or degrees thereof), success or failure is properly attributed to the operation of these factors, not to either currently operating lower-level capacities or external environmental factors, nor to past environmental or lower-level factors that played a role in the acquisition of these factors. Waller confounds the failure of moral capacities to function properly with the failure of the non-moral capacities that are the pre-conditions for the presence of any MR. (2013, p. 18)

But why do some have better-functioning moral capacities than others? Human agents certainly do act, and act as a result—at least sometimes—of their cognitive capacities. But unless those cognitive capacities somehow transcend all conditions (including the situation and the agent’s distinctive capacities, both cognitive and emotive) then when Ann acts differently from Barbara, it is always legitimate—at least for a scientific naturalist—to inquire further. Ann thought better and acted better than did Barbara, but when we look more closely and deeply at the causes we soon find critical causes that were neither made nor chosen by the agents, and which make it *unfair* to assign different rewards or punishments to the agents for behavior which was ultimately determined by factors beyond their control. This is not a matter of supervenient qualities, but of differences in the way people were shaped and differences in cognitive capacities. Ann’s careful deliberation really does cause a better choice than the choice made as a result of Barbara’s superficial deliberation, and the differing results are the product of their own cognitive capacities. But when we look deeper at the causes of Ann’s cognitive fortitude and Barbara’s cognitive lassitude, we find differences in histories, circumstances, and situations that make it implausible—unfair—to punish Barbara and reward Ann for the different acts they perform as a result of their very different deliberative processes. Ann reasons longer, harder, and more effectively, and Ann’s superior decision is her own; Barbara reasons superficially and briefly, and her inferior decision is also her own. But Ann was shaped at an early age to be a chronic cognizer while Barbara was shaped as a cognitive miser. Ann learned self-control and delayed gratification at an early age, while Barbara did not: a learning process that—research indicates (Mischel, Shoda, & Peake, 1988; Shoda, Mischel, and Peake, 1990)—largely occurs before age five. Ann has a powerful sense of cognitive self-efficacy while Barbara has little confidence in her cognitive abilities. Ann has a strong internal locus-of-control, while Barbara is deeply convinced that she can do little to control what happens in her life. Ann is well-rested, while Barbara—who has made several difficult decisions in the last hour—is in a state of severe ego-depletion (Baumeister, Bratslavsky, Muraven, &

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Tice, 1998), though she is unaware of that limitation on her ability to think carefully. Ann makes better decisions as a result of her superior decision-making capacities while Barbara makes bad decisions as the result of her much more limited capacity for careful, sustained, rigorous cognitive efforts. Unless Ann and Barbara miraculously “made themselves” (in a fashion suggested by Pico della Mirandola in the 15th century and by Jean-Paul Sartre several centuries later) then it is no more fair to reward Ann and punish Barbara for their very different decisions than it would be to reward your Porsche and punish my Chevy Nova for their own very different capacities for speed.

There is no better source of support for this claim than the research explicated by Rottschaefer (2009) in the pages of this journal. There he examined how moral agency is shaped (or misshaped) at an early age, with important influences occurring as early as age two. He also made a strong case for the claim that such shaping is both continuous with and fundamental for effective adult moral agency. When we look carefully at the key factors Rottschaefer describes, it is clear that Ann and Barbara both have moral agency, but it is also clear that their moral agency capacities are profoundly different, and that those differences resulted from causes operating in their childhood—even their infancy—that neither Ann nor Barbara chose or controlled. Close examination of the moral agency capacities of Ann and Barbara and how their differing capacities were caused (precisely the inquiry that commitment to MR blocks and scientific naturalism promotes) shows their genuine differences to be the result of their good or bad luck and not grounds for MR. If we think it wrong to hold Charlotte morally responsible for the defective moral agency that resulted from her early childhood lead poisoning, then it is equally wrong to blame Barbara for her poor exercise of moral agency that results from her deficient powers of cognitive fortitude and self-control that developed at the same tender age, and the development of which was equally *not* under the control of Barbara.

For precisely those reasons, the *deep* and detailed examination of the sources of moral agency—such as the examination carried out by Rottschaefer (2009)—leaves no space for just deserts MR. That rejection of MR is based on careful scientific examination of moral agency and on differences in the development and strength of capacities for moral agency. It is not based on intuition. However, intuition does enter into the scientifically-based rejection of MR. This leads to one of the most challenging of Rottschaefer’s many challenging questions:

Waller’s use of Haidt’s account of moral reasoning pulls him in two directions. He uses Haidt’s rationalization account of moral reasoning to problematize philosophical attempts to justify the MRS, yet in making a case for its abandonment he claims that the fairness reaction can be used to motivate and *justify* the abandonment of the strike-back reaction associated with the MRS. But how, on Waller’s account, are such changes in moral practices any more justified than the ones that they replace, given Waller’s earlier appeals to Haidt’s rationalization hypothesis about moral reasoning? (2013, p. 25)

The answer is that they are not more justified. When we find a basic conflict between our strong strike-back-based MR emotions and our deep belief in fairness, there is no ultimate moral fact or godly pronouncement to settle the conflict and announce the winner. It is quite possible to acknowledge the conflict, decide that MR has the stronger hold, and thus decide to give up the commitment to fairness: that is the path taken by George Sher (2006), who resolves the conflict by abandoning “the fairness principle.” My hope is that when people recognize a conflict between fairness and MR, most people will—at least when they consider it calmly—favor the deep intuition of fairness over the deep retributive strike-back intuition. But if not, I doubt that there is anything left to say: here we have reached bedrock feelings or intuitions and the limit of reasons.

Where does this “fairness intuition” come from? Is this appeal to value intuitions a violation of the scientific naturalist creed to which Rottschaefer and I have both pledged our faith? Rottschaefer finds this appeal to value intuitions a violation of scientific naturalist orthodoxy. But there is nothing mysterious about the belief in fairness and egalitarian values: that belief is deeply rooted, as Haidt and Bjorklund (2008) claim and as the anthropologist Christopher Boehm (2012) has recently argued. When we appeal to that deep emotional commitment, the appeal is not directly to that intuition; rather, our scientific examination of the sources of differing moral agency capacities leads to the conclusion that it is unfair to hold people morally responsible for what was ultimately beyond their control (just as it would be unfair to blame people for genetic differences). When we reach such a basic intuitive value, then we have reached (from my perspective) what Herbert Feigl (1950) called “*de principiis non disputandum*” and no further justification is possible. Or perhaps such justification is possible, as Rottschaefer has recently argued (1999, 2009)—but that is a question for another day. For the moment, my suggestion is that the basic “intuitions” have natural roots of the sort suggested by Haidt and perhaps further explained by Boehm, and my own view of how ethical decisions ultimately work is very similar to the views of Herbert Feigl—and if I can manage to be as much of a scientific naturalist as Herbert Feigl, that’s scientific naturalism enough for me. My hope is that when people calmly and carefully examine the deep sources of our capacities and behavior they will find the fairness principle more appealing than the strike-back motive. If that is a vain hope, then the hope of moving beyond the MR system is also vain.

Finally, Rottschaefer recognizes the importance of (what I have called) take-charge responsibility (TCR), but he doubts that it can be sufficiently distinguished from MR and doubts that it can serve as the substitute to fill the gap left when MR is eliminated. TCR is extremely important, both for our psychological well-being as well as for improving our own capacities (though, of course, whether we have the right tools to effectively engage in such improvements is the result of our fortunate shaping history). But in my enthusiasm for TCR I should have made clearer that it is not the *successor* to MR and it is not proposed as the substitute to fill the vacuum left by the demise of MR. Rather, TCR is something we exercise now, as we operate within the MR system. I believe we will exercise it even better, and with clearer understanding of the factors that enhance and inhibit exercise of

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TCR, when we have abandoned belief in MR. But rather than the successor to MR, TCR is a valuable form of responsibility that is often confused with MR, and one of the reasons for the fear of losing MR is the confusion of MR with TCR and thus the fear that loss of MR would mean loss of genuinely valuable TCR. So what is this other form of responsibility and how does it differ from MR?

The concept of TCR was largely borrowed from H. L. A. Hart's discussion of *role-responsibility*, though TCR is somewhat broader than *role-responsibility*. Hart speaks of *role-responsibility* as the responsibility one has for fulfilling the duties and obligations of a particular role or office:

A sea captain is responsible for the safety of his ship, and this is his responsibility. . . A sentry for alerting the guard at the enemy's approach; A clerk for keeping the accounts of his firm. . . If two friends, out on a mountaineering expedition, agree that one shall look after the food and the other the maps, then the one is correctly said to be responsible for the food, and the other for the maps, and I would classify this as a case of *role-responsibility*. (Hart, 1968, p. 212)

This *role-responsibility* is quite different from MR. Suppose that in desperate wartime circumstances—when many senior officers have been incapacitated by injuries—a young and inexperienced officer is ordered to take charge of a ship as her captain. In that case the young officer has full *role-responsibility* for his ship; but his *moral* responsibility would be a different matter altogether. If he fails in his role we would agree that he had *role-responsibility*, but most of us would deny that he was *morally* responsible: he was forced into the role and was totally unprepared for it, so it makes no sense to blame him for his failure. Or suppose we consider a splendid sea captain who does a remarkable job handling the operation of her ship, for which she has full *role-responsibility*. We have an argument about whether she is also *morally responsible* for her wonderful captaining: you claim that she does deserve special reward, and I deny it. I claim that she was just *lucky* to be such a wonderful captain because she was blessed with the sea captain gene which automatically makes all who have that gene splendid sea captains. You may well think that the sea captain gene is an absurd idea, and you might even believe that if she *does* have such an improbable gene she would still be *morally* responsible. But the point is that we both fully agree that she is *role-responsible*, but we can still dispute her *moral* responsibility; and if so, then *role-responsibility* and MR are two very different sorts of responsibility.

TCR is broader than *role-responsibility* and encompasses the responsibility we take for our own decisions and choices—indeed, the responsibility we *take* for our own lives. This is the responsibility that Joan exercises when her parents tell her she should give up philosophy and become an accountant: “This is *my* life,” Joan responds, “and I will make my *own* choices.” This TCR is very important to us, both for our personal dignity and our psychological well-being: when people believe they cannot exercise control of their own lives—as sometimes occurs in severely regulated environments, such as nursing homes—the typical result is not only depression but also increased vulnerability to infection (Langer & Rodin,

1976). It is important to me to have full TCR for my own choices, notwithstanding the fact that I am confident that many people could make better choices for my life than I can. But though I have full TCR for my life, that is consistent with the conclusion that I do not have MR for my own choices. It's psychologically good for all of us—who have at least minimal competency—to exercise TCR for our lives, but when we consider the enormous differences in abilities (abilities that are the product of good or bad fortune and not of our own making or choosing) then it is wrong to punish or reward people for exercising their TCR well or ill. Certainly one can dispute this claim (compatibilists dispute it with great energy and resourcefulness), but if there is an issue to dispute, then the distinction between TCR and MR is established.

When MR is abandoned, TCR remains; in fact, a world devoid of MR is the optimum setting for healthy, effective exercise of TCR. But TCR is not the successor to MR. What is that successor? That is a very difficult question. I wish I had an answer. Clearing out the debris of MR seems to me a worthwhile project even if we do not know the full dimensions of the replacement. But I believe that we can see the rough outline of that replacement, and the direction it will likely take. The Nordic countries are moving in that direction, though they certainly have not arrived at a system in which MR is totally eliminated. Also, we see its promise in no-fault manufacturing processes, in medical policies that reject “shame and blame” for medical error, and in the no-blame policies adopted for improving the performance of air traffic controllers. Above all, the rejection of the MR system will open the way for a richer contribution of scientific naturalism to our understanding of human behavior. When British Prime Minister John Major pushed for harsher juvenile justice policies, he proclaimed that: “Society needs to condemn a little more and understand a little less.” I believe that society needs to understand a lot more and eliminate blame, but Major was right on one point: the price of just deserts and MR is paid in reduced understanding. Insistence on MR means that we must, at some point, stop looking, lest we discover deeper causes—causes of the sort Rottschaefer emphasizes (2009)—that undermine claims of just deserts. The abandonment of MR is, in this respect, like abandoning belief in God: it destroys the limits on how far we can pursue our scientific inquiries.

Will it actually prove possible to abandon MR and move into a different system? I hope so, but I am hardly confident. Rottschaefer suggests that I believe that “there is every reason to think that the psychological barriers can be overcome” (2013, pp. 23-254), and indeed I wish I believed that. But in fact there are some very powerful psychological barriers, not to mention powerful cultural barriers (especially in neo-liberal societies such as the United States). But while the strike-back motive is certainly strong, so also is the fairness motive, and as psychologist Hanna Pickard has noted (2011), Gary Watson had clearly illustrated (1987), and most of us are aware, the more closely and carefully we consider the detailed causes of behavior, the less we are inclined to blame. And while Haidt certainly maintains that most of our moral deliberation is aimed at rationalization rather than genuine inquiry, he acknowledges that in some circumstances—not as often as we imagine, but sometimes—genuine open reflection concerning moral issues is

possible. The strike-back emotion is certainly powerful, but when we reflect carefully (particularly when we are not overwhelmed by specific emotionally-charged cases) then it is possible to recognize that holding people morally responsible is not fair. After all, though we still feel powerful emotions when an insane person, a child, or a mentally incompetent person commits a terrible crime, most of us have come to the reflective conclusion that blaming such agents is not fair. Our emotional strike-back responses will not disappear—and if Damasio (1994) is right we should not want them to disappear—but we can recognize that such emotions are not a legitimate guide to behavior. We may well conclude that those emotions are essential, as Damasio claims, but we must be very careful about such emotions nonetheless. They are perhaps a dangerous but essential power source that we cannot and should not eliminate but must handle with great care and keep tightly under control. The strike-back emotion is hardly unique in that regard: sexual desire is marvelous, and few of us would wish to eliminate it, but most of us are painfully aware that when unchecked it can crash us into some disastrous rocky shoals. Thus, it seems to me that science and reason are on the side of MR abolition along with our sense of fairness—so at times I feel confident, but then I recall that most of my fellow citizens reject evolution, and an even higher percentage believe in one or another deity, and my confidence gutters.

For all readers of *Behavior and Philosophy*, I sincerely hope that your own work finds a reviewer who comes close to the wisdom, honesty, care, depth, and insight that Professor Rottschaefer manifests in his review. It has certainly stimulated me to think harder and longer about these issues, and I am deeply grateful.

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